

#### **IV. REMARKS**

##### **Status of the Claims**

Claims 15 - 18 are amended. Claims 1-18 are presented for further consideration.

##### **Summary of the Office Action**

Claims 1-18 stand rejected under 35USC102(e) on the basis of the cited reference Terry, U.S. Publication No. 2004/0009786. Claims The Examiner is respectfully requested to reconsider his rejection in view of the above amendments and the following remarks.

##### **Discussion of the Cited Reference**

According to claim 1 of the present application, a method is claimed for controlling the operation of a mobile communication network mobile station, the method comprising transmitting a Transport Format Combination (TFC) command signal to a mobile station in a transport channel, wherein the transport channel is combined with and transmitted with at least one other transport channel. The claimed invention, therefore, relates to the sending of a TFC command in a transport channel.

The Office Action rejects all claims of the present application under 35 U.S.C. 102(b) as being anticipated by US 2004/0009786 (Terry).

In contrast to the present invention, Terry relates to a method for supporting Adaptive Modulation and Coding (AM&C) and Hybrid Automatic Repeat Request (H-ARQ) in a cellular system. More specifically, Terry discloses a method for coordinating AM&C and H-ARQ functions by transmitting control information on a

transport channel between a Base Station and a Wireless Transmit Receive Unit.

Terry specifically and exclusively refers to the use of transport channels for the sending of control signals in this manner. Terry does not disclose the use of transport channels for the transmittal of TFC commands.

Referring to paragraph 50 and 52 of Terry, when the AM&C and H-ARQ transmissions become active, an indication is sent from the MAC entities 1040 and 1045 to the MAC-d entities 1025 and 1030 to inform them that the transport channel will be active so that the proper TFC can be selected. However, Terry does not disclose that a command indicating the selected transport format combination is transmitted between the Base Station and the Wireless Transmit Receive Unit.

Indeed, Terry does not disclose the transmittal of a transport format combination in any regard. The description of Terry appears to indicate that the selection of a TFC is carried out independently at both the Wireless Transmit Receive Unit and the Radio Network Controller.

Terry does not, therefore, disclose that a transport format combination command signal is transmitted to a mobile station in a transport channel, as described in claim 1. As discussed above, the description of Terry discusses the use of transport channels entirely in the context of transmitting control information for the coordination of AM&C and H-ARQ functions.

### **The Issue of Anticipation**

The Examiner is reminded that the anticipation analysis requires a positive answer to the question of whether the system of Terry would infringe the claims of this application, if it were later.

Claim 1 of this application is directed to a method having the following feature:

**"transmitting a transport format combination command signal to a mobile station in a transport channel, wherein said transport channel is combined with and transmitted with at least one other transport channel."**

Since the capability of providing the claimed features is not present in the system of the reference Terry, there can be no infringement of the subject claims. Therefore the teaching of Terry does not support the rejection based on anticipation with respect to any of the claims. Equivalent language also appears in independent claims 4, 7, 9, 11, and 16.

These arguments apply equally to the rejected dependent claims.

For all of the above reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check in the amount of \$1,020.00 is enclosed for a three-month extension of time. The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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21 April 2006  
Date

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